

**§ 48.4221-3**

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the circumstances under which an article is considered to have been sold for use in further manufacture.

(2) *Proof of resale*—(i) *Certificate of purchaser*. The proof of resale to be received by the manufacturer, as required under section 4221(b)(1), may consist of either a copy of the invoice of the manufacturer's vendee directed to his purchaser which discloses the certificate of registry number held by each party or a statement described below. In the case of an invoice of manufacturer's vendee, it must appear from such invoice (or by statement attached thereto) that the article was in fact resold for use in further manufacture. In lieu of such an invoice, proof of resale may consist of a statement, executed and signed by the manufacturer's vendee. Such statement shall be in substantially the following form:

**STATEMENT OF MANUFACTURER'S VENDEE**

(To support tax-free sales of taxable articles to a purchaser for resale to a second purchaser for use in further manufacture (section 4221(a)(1) of the Internal Revenue Code).)

(Date) \_\_\_\_\_, 19 \_\_\_\_.

The \_\_\_\_\_, undersigned, or \_\_\_\_\_ the \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), of which I am \_\_\_\_\_ (Title), holds certificate of registry No. \_\_\_\_\_, issued by the District Director of Internal Revenue at \_\_\_\_\_.

The article or articles specified below or on the reverse side hereof were purchased tax free by \_\_\_\_\_ me, or \_\_\_\_\_ by \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), on \_\_\_\_\_ (Date) and were thereafter resold to a purchaser who holds certificate of registry No. \_\_\_\_\_, issued by the District Director of Internal Revenue at \_\_\_\_\_, for use by it as material in the manufacture or production of, or as a component part or parts of, an article or articles taxable under chapter 32 of the Internal Revenue Code, or, if the article or articles are automobile parts or accessories (to which section 4061(b) applies) or gasoline, for use by it as material (for nonfuel uses in the case of gasoline) in the manufacture or production of, or as a component part or parts of, any article or articles.

The \_\_\_\_\_, undersigned, or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), has in my/its possession proof of tax-

free resale of such article or articles in the form of related purchase orders and sales invoices, and proof of tax-free resale will be retained by \_\_\_\_\_ me or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), for at least 3 years from the date of this statement, and will be made readily available for inspection by Government officers during such 3-year period.

I have not previously executed a statement in respect of such certificate of resale, and I understand that the fraudulent use of this statement may subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

(ii) *Period covered*. Any statement executed and signed by the manufacturer's vendee, as provided in subdivision (i) of this paragraph (c)(2), may be executed with respect to any one or more articles purchased tax free from a manufacturer and resold for use in further manufacture within the 6-month period prescribed in section 4221 (a)(1) and paragraph (c)(1) of this section. Such statement (or other prescribed proof of resale) must be retained for inspection by the district director as provided in section 6001.

(Sec. 4222 (72 Stat. 1284; 26 U.S.C. 422); secs. 4051, 4052, 4061 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 2174, 2175 and 2173; 68A Stat. 917; 26 U.S.C. 4051, 4052, 4061, and 7805) and secs. 522 and 523 of the Highway Revenue Act of 1982 (Pub. L. 97-424, 96 Stat. 2185, 2186))

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7681, 45 FR 13728, Mar. 3, 1980; T.D. 7753, 46 FR 2999, Jan. 13, 1981; T.D. 7882, 48 FR 14362, Apr. 4, 1983; T.D. 8659, 61 FR 10463, Mar. 14, 1996]

**§ 48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.**

(a) *In general*. (1) An article subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(2) and this section, for export, or for resale by the purchaser to a second purchaser for export. See paragraph (a)(10) of § 48.0-2 for the meaning of the term "export".

An article may be sold tax free by the manufacturer under the provisions of this section only if the person to whom the manufacturer sells the article intends either to export the article or to resell it to a person who intends to export it. An article may not be sold tax free under the provisions of this section by a manufacturer to a purchaser for resale to a second purchaser which does not intend to export the article itself but plans to resell it to a third purchaser for export. See section 6416 (b)(2)(A) and paragraph (b)(1) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available where tax-paid articles are exported from the United States.

(2) If an article, otherwise taxable under Chapter 32 of the Code:

(i) Is sold tax free by the manufacturer pursuant to section 4221(a)(2) and this section, and

(ii) Is returned subsequently to the United States in an unused and undamaged condition,

then the importer is liable for the tax imposed by Chapter 32 on the subsequent sale or use of the article in the United States. The provisions of this paragraph (a)(2) may be illustrated by the following examples:

*Example (1).* Q, a U.S. motor vehicle manufacturer, previously sold a truck chassis to R, a company in Canada. The sale was tax free under section 4221(a)(2). R mounted a truck body on the truck chassis and sold the completed vehicle to S. Thereafter S sold the completed new vehicle to T who imported the vehicle into the United States and sold it. The sale of the completed truck subjects T to an excise tax liability under section 4061(a)(1) with respect to both the body and the chassis.

*Example (2).* X, a U.S. manufacturer of trucks, sold a trash collection truck to Y, a company in France. The sale was tax free under section 4221(a)(2). The truck was sold by Y to the City of Nice, France. After initial use, the city determined that the truck was not suited for its needs and resold the truck to X. X returned the truck to the United States where it was resold. The resale of the truck by X does not subject X to an excise tax liability under section 4061(a)(1).

(b) *Sales or resales to a foreign purchaser for export.* In the case of sales or resales to a foreign purchaser for export, where the first purchaser or the second purchaser is located in a foreign country or possession of the United

States, such purchaser is not required to register as provided in section 4222(a) and § 48.4222(a)-1. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain from such purchaser at the time title to the article passes or at the time of shipment, whichever is earlier, either:

(1) A written order or contract of sale showing that the manufacturer is to ship the article to a foreign destination; or

(2) Where delivery by the manufacturer is to be made within the United States, a statement from the purchaser showing:

(i) That the article is purchased either to fill existing or future orders for delivery to a foreign destination or for resale to another person engaged in the business of exporting who will export the article, and

(ii) That such article will be transported to its foreign destination in due course prior to use or further manufacture and prior to any resale except for export.

See section 4221(b) and paragraphs (c) and (d) of this section for requirements as to timely proof of exportation and cessation of the exemption for export unless the evidence to show actual exportation has been received by the manufacturer.

(c) *Cessation of exemption.* The exemption provided in section 4221(a)(2) and paragraph (a) of this section for an article sold by the manufacturer for export or for resale by the purchaser to a second purchaser for export shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of the article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless within the 6-month period the manufacturer receives proof, in the form prescribed by paragraph (d) of this section, that the article was actually exported. If, on the first day following the close of the 6-month period, the proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the

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strict Director of Internal Revenue at

The article or articles specified below on the reverse side hereof were purchased tax free by me or by

(Name of manufacturer's vendee if other than undersigned) on \_\_\_\_\_ (Date), and were thereafter exported.

The \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned) has in my/its possession proof of exportation in respect of such article or articles. The evidence of export available is \_\_\_\_\_

and is located at  
(If other than

address below). Such proof of exportation will be retained by

\_\_\_\_\_ (Name of manufacturer's vendee) for at least 3 years from the date of this statement and will be made readily available for inspection by Government officers.

I have not previously executed a statement in respect of the article or articles covered by this statement, and I understand that the fraudulent use of this statement will subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(Date)

(e) *Vaccines*. The exemption provided by section 4221(a)(2) applies after August 10, 1993, to the tax imposed on vaccines by section 4131, but only if—

(2) In the case of vaccine sold to, or sold for resale to, the United States or any of its agencies or instrumentalities, the United States or such agency or instrumentality notifies the manufacturer that the vaccine is intended

for uses other than the vaccination of persons described in 42 U.S.C. 300aa-11(c)(1)(B)(i)(II) (relating to certain U.S. citizens who are vaccinated outside the United States).

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7729, 45 FR 72653, Nov. 3, 1980; T.D. 8561, 59 FR 43045, Aug. 22, 1994]

**§ 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.**

(a) *Supplies for vessels or aircraft*—(1) *In general.* An article subject to tax under Chapter 32 may be sold tax free by the manufacturer, pursuant to section 4221(a)(3) and this section, for use by the purchaser as supplies for vessels or aircraft. See paragraph (b) of this section for the meaning of the term “supplies for vessels or aircraft.” An article may be sold tax free under the provisions of this section only in those cases where the sale of an article by the manufacturer is made directly to the owner, officer, charterer, or authorized agent of a vessel or aircraft for use as supplies for the vessel or aircraft. No sale may be made tax free to a dealer for resale for use as supplies for vessels or aircraft, even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(B) and paragraph (b)(2) of § 48.6416 (b)-2 for circumstances under which credit or refund of tax is available where tax-paid articles are used, or sold for use, as supplies for vessels or aircraft. An article may not be sold tax free under the provisions of this section by the manufacturer to passengers or members of the crew of a vessel or aircraft.

(2) *Civil aircraft of foreign registry.* In the case of any article sold by the manufacturer for use by the purchaser as supplies for civil aircraft of foreign registry employed in foreign trade or in trade between the United States and any of its possessions, the provisions of this paragraph apply only if the reciprocity requirements of section 4221(e)(1) are met. See paragraph (c) of this section.

(b) *Meaning of terms*—(1) *Supplies for vessels or aircraft.* The term “supplies for vessels or aircraft” means fuel supplies, ships’ stores, sea stores, or legitimate equipment on vessels of war of

the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.

(2) *Fuel supplies, ships’ stores, and legitimate equipment.* The terms “fuel supplies”, “ships’ stores”, and “legitimate equipment” include all articles, materials, supplies, and equipment necessary for the navigation, propulsion, and upkeep of vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or in trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, even though such vessels may make intermediate stops in the United States. The term does not include supplies for vessels engaged in trade (i) between domestic ports in the Atlantic Ocean and the Gulf of Mexico, (ii) between domestic ports on the Pacific Ocean, (iii) between domestic ports on the Great Lakes, or (iv) on the inland waterways of the United States.

(3) *Sea stores.* The term “sea stores” includes any article purchased for use or consumption by the passengers or crew, or both, of a vessel during its voyage.

(4) *Vessels.* The term “vessel” includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, (ii) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (iii) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions.

(5) *Vessels of war of the United States or of any foreign nation.* The term “vessels of war of the United States or of any foreign nation” includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting equipment of the armed forces (including the U.S. Coast